

APPEAL NO. 041348
FILED JULY 21, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on April 27, 2004. The CCH record was held open until May 11, 2004, to allow the appellant (claimant) to offer additional exhibits into evidence. The hearing officer resolved the disputed issues by deciding that the claimant's compensable injury of _____, does not extend to include right knee internal derangement syndrome and/or a meniscus tear; that the employer made a bona fide offer of employment to the claimant; and that the claimant did not have disability as a result of the compensable injury of _____. The claimant appeals, asserting that she is not satisfied with the hearing officer's decision because she believes the hearing officer did not consider certain medical reports attached to her appeal. The respondent (carrier) requests affirmance.

DECISION

Affirmed.

All of the documents attached to the claimant's appeal were admitted into evidence, except for a report dated February 5, 2004, which was not offered by either party. Section 410.203(a)(1) provides that the Appeals Panel shall consider the record developed at the CCH. The February 5, 2004, report has not been shown to meet the requirements for newly discovered evidence and will not be considered. Jackson v. Van Winkle, 660 S.W.2d 807 (Tex. 1983). With regard to the claimant's complaint on appeal, we note that the hearing officer states in her decision that even though all of the evidence presented was not discussed, it was considered, and that the findings of fact and conclusions of law are based on all of the evidence presented. The disputed issues presented fact questions for the hearing officer to resolve from the evidence presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**LEO MALO
12222 MERIT DRIVE, SUITE 700
DALLAS, TEXAS 75251.**

Robert W. Potts
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Edward Vilano
Appeals Judge